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Dealing with allegations of impropriety and possible fraud in the ESF 2007-2013 programme

Supersedes Action Notes 63 and 85

Who

CFOs; Managing Authority teams, London Intermediate Body, European Secretariat
Government of Gibraltar, ESF teams, ITM Unit, non-CFOs.

What

This action note supersedes Action Notes 63 and 85 that deal with irregularities and possible fraud in ESF.

Cleared

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Background

Process

Co-financing Organisations

1. The vast majority (over 95%) of ESF support in the 2007-2013 programme is delivered through Co-financing Organisations (CFOs). The three main CFOs are DWP Employment Group (DWP), the Skills Funding Agency (SFA) and the National Offender Management Service (NOMS). There are several smaller CFOs. These are Bedfordshire Borough Council, Luton Borough Council, London Councils, Greater London Authority and the Local Authority Consortium in the East Midlands.
2. Under the ESF co-financing model responsibility for relationships and contracts with providers/projects beneath the CFO level rests with the CFO. This includes dealing with allegations of improprieties and possible fraud. If such allegations are received then the CFO should begin their own internal processes for investigating the veracity or not of the allegations. These internal processes should be followed as outlined by each individual CFO. ESFD recognises that each CFO will have a different process for handling suspected fraud cases.
3. Regulations state that instances of suspected fraud should be notified to OLAF through the Managing and Certifying Authorities immediately. Where an allegation of fraud is made, an estimated irregularity should be raised with the Managing Authority at the point when investigators or the CFO conclude that there is a potential case of fraud and launch a formal investigation.
4. Once the investigation has been completed then it should be concluded according to the CFOs processes and then a revised irregularity should be raised with the Managing Authority to notify where fraudulent activity was established and if so to provide a quantified amount of funding. Where the allegation has been found not proven then a letter outlining the circumstances should be sent to the MA.
5. The process cannot be regarded as concluded if police and/or court action is outstanding and until any such activity is finished the case must continue to be regarded as uncompleted.

Non-CFO Projects

6. The remaining less than 5% of the England ESF programme 2007-2013 is delivered by non CFO projects. These are: Technical Assistance (TA) projects; Innovation, Transnationality and Mainstreaming (ITM) Projects; Higher Education (HE) projects in Cornwall; and, Local Authority projects in Liverpool.
7. These projects are directly funded and therefore any allegation of impropriety or possible fraud should be passed to the Managing Authority in ESFD in the first instance and then to IAI if appropriate.

Receipt of concern/allegations – initial action by IAI

8. Where DWP Internal Audit and Investigations (IAI) receive an allegation from an outside body or other intelligence source suggesting irregularity, they will liaise with the Managing Authority (MA) in ESFD.
9. IAI will undertake preliminary enquiries liaising, if appropriate, with the Work Programme Division (WPD) Account Manager in the case of DWP CFO allegations and the MA to establish if there is sufficient evidence to justify accepting the case for further enquiries. Where allegations have been made in relation to SFA CFO activity IAI will, if appropriate, liaise with the relevant Area Relationship Manager. Where allegations have been made in relation to NOMS CFO activity IAI will, where appropriate, liaise with the appropriate personal in the NOMS CFO. For the other, smaller, CFO's the Managing Authority will advise IAI who they should liaise with. IAI will usually inform the MA of its decision within 5 working days of receipt of the referral.
10. Where the MA/Intermediate Body has been approached by a Police Authority in conjunction with a criminal investigation; the MA will forward details to IAI. IAI will then contact the Police and become the main contact point for DWP with the Police.
11. If IAI consider that the referral does not warrant their involvement they will contact the MA in writing giving the reasons for non-acceptance and recommending any further action by the MA. In all such cases, the MA may re-refer the case if further information comes to light.

Action by IAI on acceptance of a referral from ESFD

12. If IAI accept the matter for further enquiries the investigation will be conducted in line with best practice and the professional standards laid down in the IAI Guidance.
13. As per standard IAI operational practice in Contracted Employment Programme investigations, the investigator will liaise principally with the appropriate WPD Account Manager who has direct knowledge of the provider under investigation or in the case of non DWP CFO's the personnel referred to in paragraph 9 above.. The investigator will copy the MA into relevant communications.
14. From this stage IAI will handle all correspondence between the informant, the ESF Applicant Body and Government and non-Governmental funding bodies
15. IAI will require the MA to provide details of all dossiers for the ESF Applicant Body, together with those of any other ESF Applicant Body associated with the ESF Applicant Body under investigation.
16. If at any point during IAI's enquiries there is evidence, or a reasonable suspicion held that fraudulent activity has taken place, IAI will immediately write to the MA. It is the CA who is responsible for notifying OLAF of instances of suspected fraud.
17. IAI will consider if any referral to the Police is required and inform the MA as a matter of courtesy. The ultimate authority to refer to the Police rests with IAI.
18. IAI will concentrate on investigating the specific allegations made. However if in the course of the investigation IAI discovers non compliance with ESF rules and regulations, find that documentation is missing or is deemed ineligible, it will report these to the WPD Account Manager and to the MA for consideration/action.

19. At the end of the investigation, IAI will produce a report for the WPD Account Manager and the MA to consider. The report will detail the findings of the investigation, determine the amount of loss arising (in consultation with the WPD Account Manager as necessary), and recommend further action to be taken by the MA if appropriate. It will also, if appropriate, recommend any necessary improvement in control to prevent any similar occurrence in the future. IAI will not attempt to determine questions of policy relating to ESF Regulations; IAI will expect the MA to decide upon these issues based on information provided by IAI and/or by follow-up work by the MA.
20. The WPD Account Manager (or in the case of non DWP CFO's the personnel referred to in paragraph 9 above) will pursue recovery of loss from the provider and keep IAI and the MA informed of progress.

Action by Managing Authority on receipt of IAI's report

21. The MA will issue IAI's Investigation Report to the CA and any relevant Intermediate Body (as appropriate) within 5 working days and monitor on a quarterly basis progress towards clearing outstanding issues.
22. Where OLAF have been notified about instances of suspected or actual fraud, the CA will advise that the matter has been concluded and provide a summary of their findings.
23. If police and/or court action is outstanding, IAI will continue to update the MA until all such action is concluded.

Action

Recipients of this Action Note are asked to note its contents and that the ESF guidance manuals will be amended to reflect this change.

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